



FEDERAL ELECTION COMMISSION
Washington, DC 20463

First Class Mail

MAR 29 2016

Brad Cornelson

Council Bluffs, Iowa 51503

RE: MUR 7027
Brad Cornelson

Dear Mr. Cornelson:

In the normal course of carrying out its supervisory responsibilities, the Federal Election Commission (the "Commission") notified you on September 25, 2014, that it became aware of information suggesting you may have violated the Federal Election Campaign Act of 1971, as amended (the "Act") in connection with activity while you were Chief Financial Officer of MV Transportation between August 24, 2011 and September 27, 2013. On September 30, 2016, the Commission received your response. On March 15, 2016, the Commission found reason to believe that you violated 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(e) by consenting to the making of corporate contributions, totaling \$43,100, to candidate committees. The Commission also found reason to believe that you violated 52 U.S.C. § 30122 and 11 C.F.R. § 110.4(b)(1)(iii) by knowingly helping and assisting in the making of contributions in the name of another. Enclosed is the Factual and Legal Analysis that sets forth the basis for the Commission's determination.

We have also enclosed a brief description of the Commission's procedures for handling possible violations of the Act. In addition, please note that you have a legal obligation to preserve all documents, records and materials relating to this matter until such time as you are notified that the Commission has closed its file in this matter. *See* 18 U.S.C. § 1519. This matter will remain confidential in accordance with 52 U.S.C. § 30109(a)(4)(B) and § 30109(a)(12)(A) unless you notify the Commission in writing that you wish the matter to be made public. Please be advised that, although the Commission cannot disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.¹

In order to expedite the resolution of this matter, the Commission has authorized the Office of the General Counsel to enter into negotiations directed towards reaching a conciliation agreement in settlement of this matter prior to a finding of probable cause to believe. Pre-

¹ The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

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probable cause conciliation is not mandated by the Act or the Commission's regulations, but is a voluntary step in the enforcement process that the Commission is offering to your client as a way to resolve this matter at an early stage and without the need for briefing the issue of whether or not the Commission should find probable cause to believe that your client violated the law.

If you are interested in engaging in pre-probable cause conciliation, please contact Kimberly Hart, the attorney assigned to this matter, at (202) 694-1650 or (800) 424-9530, within seven days of receipt of this letter. During conciliation, you may submit any factual or legal materials that you believe are relevant to the resolution of this matter. Because the Commission only enters into pre-probable cause conciliation in matters that it believes have a reasonable opportunity for settlement, we may proceed to the next step in the enforcement process if a mutually acceptable conciliation agreement cannot be reached within sixty days. *See* 52 U.S.C. § 30109(a), 11 C.F.R. Part 111 (Subpart A). Conversely, if you are not interested in pre-probable cause conciliation, the Commission may conduct formal discovery in this matter or proceed to the next step in the enforcement process. Please note that once the Commission enters the next step in the enforcement process, it may decline to engage in further settlement discussions until after making a probable cause finding.

If you intend to be represented by counsel in this matter, please advise the Commission by completing the enclosed Statement of Designation of Counsel form stating the name, address, and telephone number of such counsel, and authorizing such counsel to receive any notifications and other communications from the Commission.

We look forward to your response.

On behalf of the Commission,



Matthew S. Petersen
Chairman

Enclosures

Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

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3 **FACTUAL AND LEGAL ANALYSIS**

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5 **MUR:** 7027

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7 **RESPONDENT:** Brad Cornelsen

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9 **I. INTRODUCTION**

10 This matter was initiated pursuant to information ascertained by the Commission in the
11 normal course of carrying out its supervisory responsibilities. The Commission received
12 information indicating that MV Transportation, Inc. ("MV") reimbursed MV's former Chief
13 Executive Officer ("CEO"), R. Carter Pate ("Pate") for six political contributions totaling
14 \$43,100 that Pate made to federal candidates and political committees between 2011 and 2013.
15 The Commission also possesses information indicating that Pate or his secretary would send a
16 copy of Pate's personal contribution check to Brad Cornelsen, MV's former Chief Financial
17 Officer ("CFO"), for approval and reimbursement by the corporation, and that Cornelsen
18 approved the six reimbursement requests.

19 For the reasons described below, the Commission finds reason to believe that Cornelsen
20 violated 52 U.S.C. §§ 30122 and 30118(a) and 11 C.F.R. §§ 110.4(b)(1)(iii) and 114.2(e) by
21 helping and assisting Pate to make corporate contributions in the name of another.

22 **II. FACTUAL BACKGROUND**

23 The Commission has ascertained the following information as part of the normal course
24 of carrying out its supervisory responsibilities.

25 MV is a privately held corporation providing passenger transportation services
26 throughout the United States. Jon Monson served as CEO from 1999 through 2011, but is no
27 longer a director of MV.

1 R. Carter Pate became CEO of MV in late 2011. In that capacity, he also served on the
2 Board of Directors. Before that, Pate was the Global and U.S. Managing Partner for the Capital
3 Projects, Infrastructure, and Government Practice at PricewaterhouseCoopers. Pate retired as
4 MV's CEO and Board member in September 2014. As of September 2014, however, he
5 continued to work with MV as a Strategic Advisor to the Board. Throughout his career as an
6 executive, Pate had significant experience with federal political campaigns and fundraising.

7 Brad Cornelsen was CFO of MV, and Cornelsen's employment ended in April 2014.

8 During MV's internal analysis of executive compensation in April 2014, Pate reported
9 certain unusual executive bonus payments" to the MV Board. The Board then retained a law
10 firm to conduct an internal investigation regarding the executive bonus payments and other
11 possible financial irregularities. Through this investigation, the Board learned that between 2011
12 and 2013, MV had reimbursed Pate for six federal political contributions totaling \$43,100.

13 Pate believed that as CEO, he had the authority to make all six federal contributions, and
14 did not seek or obtain approval from the Board or any other MV executive before making them.
15 It appears that until the internal investigation, the Board did not know that MV had reimbursed
16 Pate with corporate funds for federal contributions. Further, MV's bonus policy requires that
17 any bonus for executive officers be in writing in employment agreements, and approved by the
18 Board's Compensation Committee. Nevertheless, it appears that the Board did not approve
19 Pate's bonuses as required under the policy because the reimbursements were not presented to
20 them for approval — no Board members other than Pate and Cornelsen knew that corporate
21 reimbursement for federal contributions had taken place.

22 Based on the information before the Commission, it appears that Pate did not submit the
23 reimbursements to the Board because he thought that contribution reimbursements did not

1 require Board approval. Although the Commission possesses information suggesting that it was
2 the CFO's responsibility to enforce MV's executive compensation policy,¹ it appears that
3 Cornelsen never confirmed that the Board had approved the requested reimbursements.²

4 **A. RickPerry.org Contribution**

5 On August 24, 2011, Pate made a \$5,000 contribution to RickPerry.org using a check
6 from his personal account. Based on the Commission's disclosure records, Pate held this
7 account jointly with his wife Angela, and half of the contribution was reattributed to her.³

8 On November 15, 2011, Pate sent an email to his then-assistant, Jo Cobb, asking that she
9 provide a copy of the check to Cornelsen for reimbursement, and that Pate sent a copy of this
10 email to Cornelsen. The Commission also possesses information indicating that Pate does not
11 recall specific correspondence from Cornelsen approving and authorizing the reimbursement, but
12 MV reimbursed him for the contribution.

13 **B. Mica for Congress Contribution**

14 On December 5, 2011, Pate made a \$5,000 contribution to Mica for Congress using a
15 check from his personal checking account.⁴ Pate did not write the check, but instead signed it in
16 advance and had his assistant "release" it. Pate made this contribution in connection with his
17 attendance at a Mica for Congress fundraising breakfast on December 8, 2011.

¹ Cornelsen himself states that his processing of reimbursement requests included "review of the expenditure's approval in accordance with the MV signing authority/approval matrix." Cornelsen Resp. at 1.

² See *id.* (asserting that Cornelsen "followed Pate's strict instructions relative to his assertion of the contributions prior approval . . . in accordance with the MV [Transportation] signing authority/approval matrix").

³ See RickPerry.org Amended 2011 Oct. Quarterly Rpt. at 2,286 (Nov. 4, 2011) (reporting reattribution of \$2,500 of Robert Pate's \$5,000 contribution to Angela Pate on August 29, 2011).

⁴ See Mica for Congress Amended 2011 Year-End Rpt. at 30-31 (May 5, 2012) (reporting receipt of two \$2,500 contributions on December 19, 2011).

1 On December 16, 2011, MV made a bonus payment to Pate via ACH electronic transfer
2 in the gross amount of \$8,925, and that this amount represented a net payment of \$7,000 to Pate,
3 \$5,000 of which constituted a reimbursement for Pate's contribution.⁵

4 **C. Pete Sessions for Congress Contributions**

5 On April 24, 2012, Pate made a \$5,000 contribution to Pete Sessions for Congress using
6 two \$2,500 checks from his personal checking account.⁶ Additionally, on September 27, 2013,
7 Pate made a \$2,600 contribution to Pete Sessions for Congress. The Commission's disclosure
8 records, however, indicate that Pete Sessions for Congress attributed \$1,300 of this contribution
9 to Pate and \$1,300 to his wife.⁷ The Commission possesses information indicating that Pate
10 wanted to give his support to Representative Sessions as a business decision, and Cornelsen
11 would have known about the contributions.

12 On April 24, 2012, Pate's secretary sent an email to Cornelsen requesting reimbursement
13 for the first two \$2,500 contributions. In addition, on April 27, 2012, MV made a bonus
14 payment to Pate via ACH electronic transfer in the gross amount of \$6,078, which represented a
15 net payment to Pate of \$5,000. On September 27, 2013, Pate requested reimbursement for the
16 third \$2,600 contribution.⁸ On the same day, MV made a bonus payment to Pate via "manual
17 check," which represented a net payment of \$2,600.

⁵ The Commission possesses information indicating that Pate does not recall specific correspondence seeking reimbursement for this contribution, but based on standard practice, believes that his secretary provided the particulars of the contribution to the CFO, who approved and authorized reimbursement.

⁶ See Pete Sessions for Congress 2012 Pre-Primary Rpt. at 9 (May 16, 2012) (reporting receipt of two \$2,500 contributions on May 5, 2012).

⁷ See Pete Sessions for Congress 2013 Oct. Quarterly Rpt. at 56-57 (Oct. 15, 2013).

⁸ The Commission possesses information indicating that Pate does not recall specific correspondence, but believes that Cornelsen approved reimbursement.

D. Cantor for Congress Contribution

On June 20, 2012, Pate made a \$500 contribution to Cantor for Congress using a check from his personal checking account.⁹

On June 25, 2012, Pate's secretary sent an email to Cornelsen asking for reimbursement of the contribution. On the same day, Cornelsen sent an email to an individual who worked in Payroll approving Pate's request. On June 29, 2012, MV made a bonus payment to Pate via ACH electronic transfer in the gross amount of \$38,969, which included a \$507.35 "grossed up" reimbursement of the \$500 contribution.

E. Romney Victory Contribution

On September 10, 2012, Pate made a \$25,000 contribution to Romney Victory, Inc., a joint fundraising committee.¹⁰ The contribution was made in connection with Pate's attendance at a Romney campaign event.

On August 31, 2012, Pate's secretary submitted a reimbursement request for the contribution, which Cornelsen approved on September 4, 2012. On September 5, 2012, MV made a bonus payment to Pate via ACH electronic transfer in the gross amount of \$36,977, which represented a net payment of \$25,000 to Pate.

The Commission notified Cornelsen that it received information the normal course of carrying out its supervisory responsibilities indicating that he may have violated the Federal Election Campaign Act of 1971, as amended, ("the Act") and provided Cornelsen an opportunity to respond. Cornelsen states that Pate told him that MV's General Counsel and the Board

⁹ See Cantor for Congress 2012 Oct. Quarterly Rpt. at 95 (Oct. 15, 2012) (reporting receipt of \$500 contribution on July 13, 2012).

¹⁰ See Romney Victory, Inc. Amended 2012 Oct. Quarterly Rpt. at 25,211 (June 15, 2013) (reporting receipt of \$25,000 contribution on September 24, 2012).

1 “agreed these contributions were to be reimbursed to him on a tax ‘gross-up’ basis.”¹¹ Cornelsen
2 also asserts that he “is not familiar with the Federal Election Campaign Act regulations and
3 relied implicitly on Pate’s prior experience as former Virginia State Finance Chair.”¹²

4 III. LEGAL ANALYSIS

5 A. There is Reason to Believe that Cornelsen Violated 52 U.S.C. § 30122 and 6 11 C.F.R. § 110.4(b)(1)(iii) by Knowingly Helping and Assisting Pate Make 7 Contributions in the Name of Another

8 The Act prohibits a person from making a contribution in the name of another or
9 knowingly permitting his or her name to be used to effect such a contribution.¹³ That prohibition
10 extends to knowingly helping or assisting any person in making a contribution in the name of
11 another.¹⁴ The Commission has explained that “knowingly helping or assisting” a false-name
12 contribution would reach the conduct of “those who initiate or instigate or have some significant
13 participation in a plan or scheme to make a contribution in the name of another.”¹⁵

14 Here, by processing and approving Pate’s reimbursement requests, Cornelsen caused MV
15 to make contributions in Pate’s name, and therefore played a significant and integral role in
16 Pate’s scheme.¹⁶ Although Cornelsen asserts that he did not have authority to approve
17 reimbursements,¹⁷ the record suggests otherwise. The Commission possesses information
18 indicating that for each reimbursement, Pate’s secretary would send a copy of the contribution

¹¹ Cornelsen Resp. at 1.

¹² *Id.*

¹³ 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b)(1)(i)-(ii).

¹⁴ 52 U.S.C. § 30122; 11 C.F.R. § 110.4(b)(1)(iii).

¹⁵ Explanation & Justification for 11 C.F.R. § 110.4, 54 Fed. Reg. 34,098, 34,105 (Aug. 17, 1989).

¹⁶ *Cf., e.g.,* Factual & Legal Analysis at 7, MUR 5948 (Critical Health Systems, Inc., *et al.*) (finding reason to believe that respondent knowingly helped and assisted in the making of contributions in the name of another by handling and processing payments to conduits).

¹⁷ *See* Cornelsen Resp. at 1.

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1 check to Cornelsen, who would then direct an individual in the Payroll department to “gross up”
2 the appropriate amount to Pate, including an instance in which he marked the reimbursement
3 “approved.” Based on this information, the Commission finds reason to believe that Cornelsen
4 violated section 30122.

5 Although Cornelsen was a senior officer, appears to have knowingly processed the
6 reimbursements as bonuses, and failed to confirm whether the Board had approved the
7 reimbursements — which might suggest that he aided in concealing the transactions — given the
8 specific circumstances of this case, the Commission declines to proceed on a knowing and
9 willful basis against him. Cornelsen asserts that Pate advised him that MV’s General Counsel
10 and Board had approved the bonuses.¹⁸ Moreover, there is no evidence in the record to suggest
11 that Cornelsen had any past experience with federal political fundraising and contributions.¹⁹

12 **B. There is Reason to Believe that Cornelsen Violated 52 U.S.C. § 30118(a) and**
13 **11 C.F.R. § 114.2(e) by Consenting to Corporate Contributions**

14 The Act prohibits corporations from making contributions to a federal political
15 committee other than independent expenditure-only political committees, and further prohibits
16 any officer of a corporation from consenting to any such contribution by the corporation.²⁰ Here,
17 because Cornelsen consented to making prohibited corporate contributions to candidate
18 committees, the Commission finds reason to believe that Cornelsen violated section 30118(a).

¹⁸ Cornelsen Resp. at 1.

¹⁹ According to Commission records, it does not appear that Cornelsen has made any reportable federal contributions.

²⁰ 52 U.S.C. § 30118(a); 11 C.F.R. § 114.2(b), (e).